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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE INCRETIN-BASED THERAPIES
PRODUCTS LIABILITY LITIGATION

RICHARD MUNDY,

Plaintiff,

v.

MERCK SHARP & DOHME CORP.,
and DOES 1-100

Defendants.

3:13-md-02452-AJB-MDD

MDL NO. 2452

Judge: Hon. Anthony J. Battaglia
Magistrate Judge: Mitchell D.
Dembin

**STIPULATION AND JOINT
MOTION TO SUBSTITUTE
PLAINTIFF AND AMEND
CAPTION AND COMPLAINT**

Case No. 13-cv-2365-AJB-MDD

WHEREAS counsel for Plaintiff represents as follows:

1. Plaintiff filed the present action on October 2, 2013.
2. On June 10, 2014, Plaintiff died of complications from pancreatic cancer.
3. On June 26, 2015, Plaintiff's counsel filed a Suggestion of Death under Rule 25(a)(1) of the Federal Rules of Civil Procedure.
4. Valerie Capito-Mundy was appointed the Personal

1 Representative of the Estate of Richard Mundy on August 11, 2015.

2 IT IS HEREBY STIPULATED by the parties that Valerie Capito-
3 Mundy may be substituted as the plaintiff under Rule 25(a)(1) of the
4 Federal Rules of Civil Procedure, subject to the reservation of all rights
5 and defenses by defendant. The parties stipulate further that the caption
6 of the case be amended as follows: *VALERIE CAPITO-MUNDY,*
7 *INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE*
8 *ESTATE OF RICHARD MUNDY, DECEASED, Plaintiff, v. MERCK SHARP*
9 *& DOHME CORP., ET AL., Defendants;* and the complaint may be
10 amended to conform to the short form complaint format as well as include
11 loss of consortium, wrongful death and survival claims, as shown in the
12 attached Exhibit A.

13 Dated: September 15, 2015 Respectfully submitted,
14 **TORHOERMAN LAW LLC**

15 _____
16 /s/ Jacob W. Plattenberger

17 Jacob W. Plattenberger
18 Admitted *Pro Hac Vice*
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3 Dated: September 15, 2015 /s/James Bierman
4 James Bierman
5 JBierman@wc.com
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8 Washington, D.C. 2005-5901
9 Telephone: (202) 434-5000
10 Facsimile: (202) 434-5029
11 Attorneys for Defendant Merck Sharp & Dohme
12 Corp.

13 **CERTIFICATION OF ACCEPTANCE OF CONTENT BY ALL PARTIES**

14 I, Jacob W. Plattenberger, declare under penalty of perjury and
15 pursuant to the laws of California and the United States that I have in my
16 possession e-mail correspondence from defense counsel dated September
17 15, 2015 that the content of this Unopposed Motion and Stipulation is
18 acceptable to all persons required to sign it.

19 /s/ Jacob W. Plattenberger
20 Jacob W. Plattenberger

21
22
23 **CERTIFICATE OF SERVICE**

24 The undersigned hereby certifies that a true and accurate copy of the
25 foregoing was served upon all counsel of record via the Court's CM/ECF
26 Filing System this 15th day of September, 2015.

27 /s/ Jacob W. Plattenberger
28 Jacob W. Plattenberger